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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HABITAT FOR HORSES, a Texas non-profit
corporation; AMERICAN SOCIETY FOR THE
PREVENTION OF CRUELTY TO ANIMALS, A New
York non-profit corporation; THE CLOUD
FOUNDATION, a Colorado non-profit corporation,
TONI MOORE; and DR. DON MOORE,

Plaintiffs,

v.

KEN SALAZAR, in his official capacity as Secretary,
U.S. Department of the Interior; ROBERT ABBEY, in
his official capacity as Director, Bureau of Land
Management; KENT WALTER, in his official capacity
as Field Manager, Bureau of Land Management, White
River Field Office,

Defendants.

10 Civ. 7684 (WHP)

DECLARATION OF FRANCIS G. ACKLEY

Francis G. Ackley, pursuant to the provisions of 28 U.S.C. § 1746, declares, under
penalty of perjury, as follows:

1. I am the Wild Horse & Burro Program Leader for the U.S. Department of
Interior's Bureau of Land Management (BLM) Colorado State Office, which is located in
Lakewood, CO. I have served in this capacity for the past 18 years. In my role as the Wild

Horse & Burro Program Leader I am the BLM expert within Colorado on wild horses and burros.

2. My duty station is Canon City, CO, approximately 30 miles west of Pueblo, CO. As part of my duties, I manage a large wild horse and burro holding and training facility in cooperation with the Colorado Department of Corrections ("the Canon City holding facility"). The Canon City holding facility has a maximum capacity of 3,000 animals. In my tenure as facility manager for the past 18 years, I have been responsible for the daily welfare, health and safety of many tens of thousands of wild horses and burros, as well as their shipment, adoption, and/or training. I am not a veterinarian, but I have worked with and consulted with numerous veterinarians through the years in managing the horses held at the Canon City holding facility. I deal with horse health issues on a daily basis, and I have personally treated or been responsible for the treatment of thousands of wild horses for all types of diseases and injuries.

3. The purpose of this declaration is to explain why neither the BLM Yellow Creek holding corrals, located approximately 40 miles southwest of Meeker, CO, nor any temporary corrals located even further away from Meeker, CO, are sufficient for holding gathered wild horses for long periods, and why it is neither humane, prudent nor practical to expect to return horses to the North Piceance Herd Area after they have shipped to the Canon City holding facility.

4. The Yellow Creek corrals or any temporary corrals are designed for short-term holding of wild horses gathered within the White River Field Office area of jurisdiction, which includes the Piceance East Douglas Herd Management Area as well as the North Piceance Herd Area.

5. The Yellow Creek corrals are located in a remote field setting, elevation 7,000 feet, that is accessed only by gravel roads. Any provisions for caring for wild horses at the corrals must be brought from Meeker, CO, approximately 40 miles away. I understand that during the gather currently being conducted by BLM's White River Field Office the gathered horses are being corralled in temporary corrals that are located a 30 minute drive away from the Yellow Creek corrals and even further away from Meeker, CO.

6. There are approximately 7 permanent pens within the Yellow Creek corrals, a loading chute for semi trucks, and a working chute where horses are sorted and otherwise treated. Water is provided by a well that is serviced by a manually controlled, electric pump. The pump is used on an as-needed basis but is not designed to be used for extended periods when temperatures are consistently below freezing, as there is no heat source to prevent pipes from freezing.

7. Typically, wild horses gathered by BLM by the White River Field Office stay at the Yellow Creek corrals or the temporary corrals used during a gather until there are enough wild horses to fill a semi trailer, which is generally around 33 adult horses. Gathering enough horses to fill a semi trailer generally takes 1-2 days, after which the wild horses are shipped to the Canon City holding facility. At the Canon City holding facility the pens are much larger and the facility is designed for longer-term holding than are Yellow Creek or temporary corrals. Occasionally a few horses (20-30) are left at the Yellow Creek corrals for up to 10 days, if the BLM is holding an adoption or the horses are to be returned back to the range. BLM will return horses corralled at the Yellow Creek corrals to the range when the Environmental Assessment ("EA") for a gather contemplates such a return. Circumstances in which the EA will contemplate such a return include where BLM plans to treat the gathered mares with the

contraceptive vaccine PZP while they are in the Yellow Creek corrals prior to their return to the range, or BLM plans to gather more horses than necessary, with expectation of releasing horses to the range after determining which horses should be released with the goal of maintaining a diverse age structure, herd characteristics and body type.

8. Snow and freezing temperatures are common in the vicinity of the Yellow Creek corrals beginning in late October. Access to the horses by vehicle becomes riskier as winter progresses and conditions in the corrals become more dangerous because of poor footing due to ice and mud. Their acclimation back to life on the range is more difficult in winter weather because of compromised immune systems, low temperatures, poor forage quality, iccd-over water sources, and snow cover.

9. Around-the-clock security is necessary for horses corralled at the Yellow Creek corrals in order to prevent anyone from harassing the horses or releasing them without authorization. Such an incident occurred during a previous gather.

10. Wild horses are territorial by nature. The social unit, referred to as a band, typically consists of a herd stallion, a lead mare, from 1-5 other mares, their current year's offspring, and some of the previous year's offspring. The band has a territory within the herd management area that is aggressively defended by the herd stallion. When the bands come in close proximity to each other, such as at a common water source, physical separation between bands is usually maintained. Inter-band fighting is usually kept to a minimum but it does occur when this physical separation is not maintained and territories are encroached upon.

11. Despite these drawbacks to the horses being grouped together at the holding facility, it is neither safe nor feasible to separate each horse to an individual pen. Being

gregarious by nature, when wild horses are singled out they become much more stressed and are apt to panic and seriously injure or kill themselves.

12. Gathered wild horses have never been immunized against common, domestic horse diseases. Stress levels are increased not only by the gather event itself but by the stresses of confinement and close proximity to horses from other bands. At the Yellow Creek corrals, the horses are typically separated in pens by sex or by band, causing horses that may have been rivals on the range to be in the same or an adjacent pen. As the horses reestablish dominance and a pecking order, fighting is not uncommon. Injuries can result from this fighting, not only to the participants but to younger animals that may get in harm's way. This can be especially dangerous to nursing foals as their mothers are very protective. Although BLM gathers wild horses in the fall so that most foals will be old enough (at least four months) to wean, the gathered foals are still young enough that they are still nursing when they are gathered.

13. The increased stress levels, coupled with a naïve immune system and an expected decline in body condition, predispose the horses to upper respiratory infections such as influenza, rhinopneumonitis, other herpes viruses, strep infections (the most common being strangles), and pneumonia. The longer the horses are kept at the Yellow Creek corrals, the greater the stress and the higher the potential for acquiring upper respiratory problems. These diseases are either bacterial or viral in nature and are therefore contagious.

14. Symptoms of some upper respiratory diseases may not be readily apparent due to an incubation period of 7- 21 days. Even though horses do not show symptoms of disease, the diseases may still be present within the animal. Holding animals at the Yellow Creek corrals for extended times and then releasing them back into the herd may bring disease to the animals on the range, not only in the North Piceance Herd Area but also in the adjacent Piceance/East

Douglas Herd Management Area. Upper respiratory problems are more prevalent with the onset of cold weather, which we are experiencing now and through next spring at the Yellow Creek corrals.

15. The Yellow Creek corrals are approximately 260 miles away from the Canon City holding facility, which is about a six hour truck ride for any wild horses transported between those locations. It is neither practical nor humane to ship the animals to Canon City with any expectation of returning them back onto the range. The shipping events would increase stress and the immunologically naïve horses would be exposed to a host of diseases that are ever present in such a large holding facility.

16. The Canon City holding facility is also expected to be near its capacity of 3,000 animals by early November, 2010. In order to operate at this level, the myriad of pens at the holding facility (approximately 50, varying in capacity from 3 to 125 horses) have to be filled to their capacity. When new horses are brought in, they are vaccinated, dewormed, branded, and tagged. The horses must receive a booster vaccination within 3-4 weeks of their initial vaccination. Therefore, at the Canon City holding facility groups of horses are not only separated by sex and age (weaned foals must be kept separate), but by their vaccination schedules. If any horses gathered from the North Piceance herd area are to be separated, it would require the dedication of several pens (at least one each for mares, stallions, weaned foals, and unweaned foals and their mothers) and these pens would not be used to their capacity. This would create more crowded conditions for other horses at the holding facility.

17. Furthermore, pursuant to agreements with the Colorado and Wyoming Departments of Agriculture, the Canon City holding facility is under a voluntary quarantine that is not expected to be lifted until sometime in December 2010. Wild horses are allowed into the

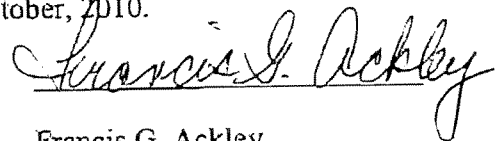
holding facility but cannot leave until all incoming horses have tested negative for equine infectious anemia. Even after the quarantine is lifted, any horses going back onto the range would have to be quarantined in a relatively sterile location for a period of 21 days in order to prevent any diseases from being introduced into the herd. Indeed, BLM has conducted roughly 20 gathers in Colorado over the last 15 years, and only one horse has been returned to the range after it has come to Canon City, under extraordinary circumstances not present here.

18. Once wild horses arrive at a holding facility such as Canon City, they are generally kept in holding at that facility or another such facility until such time as a member of the public adopts the horse or it is sent to a long term pasture. BLM has scheduled two adoption events for the Canon City holding facility in December 2010.

19. After considering the health impacts to the horses, the limitations of the Yellow Creek corrals, the additional costs that would be incurred, and the increased potential for winter weather conditions, the BLM has determined that it is not prudent or practical to hold wild horses at the Yellow Creek corrals or at temporary corrals beyond October 22, 2010. Nor would it be humane, prudent, or practical to expect to return horses to the North Piceance Herd Area after they have been shipped to the Canon City holding facility, in light of concerns to the health and safety of the horses, as well as logistical concerns.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Canon City, Colorado on this 17th day of October, 2010.



Francis G. Ackley
Wild Horse & Burro Program Leader
Bureau of Land Management
Colorado State Office